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THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

Letter dated 13 May 1994 from the Permanent Representative of Haiti to the United Nations addressed to the Secretary-General

Further to the letter dated 23 March 1994 addressed to you by President Jean-Bertrand Aristide, I have the honour to enclose herewith the text of the terms of reference and procedures which were negotiated with your Special Envoy, Mr. Dante Caputo, for the deployment of the International Civilian Mission in Haiti.

I should be grateful if you would have the text of this letter and its annex distributed as a document of the General Assembly under agenda item 31.

(Signed) Fritz LONGCHAMP
Permanent Representative

Annex

INTERNATIONAL CIVILIAN MISSION IN HAITI

1. The International Civilian Mission in Haiti (subsequently referred to as the Mission) is hereby set up in response to the request which the President of Haiti, Jean-Bertrand Aristide, put forward in his letter of 8 January 1993, addressed to the Secretary-General of the United Nations and the Secretary-General of the Organization of American States.

2. The Mission shall carry out its mandate in accordance with the decisions taken and the agreements concluded by the Secretaries-General of the two organizations and, more specifically, in pursuance of the provisions of this document.

3. The objective of the Mission shall be to ensure that the human rights laid down in the Constitution of Haiti and the international instruments to which Haiti is party, especially the International Covenant on Civil and Political Rights and the American Convention on Human Rights, are respected in Haiti.

4. The Mission shall exercise its mandate throughout the territory of Haiti. It shall be provided, at the headquarters of each of the two organizations, with a support group.

5. The Mission shall be composed of two groups, the members of which shall come from the two organizations. Each group shall have a director in Haiti. The two directors shall report regularly on the progress of their mission, through the intermediary of the Special Envoy, to the Secretaries-General of the two organizations, who shall, in turn, report to the competent bodies of each organization.

6. The Special Envoy shall be entrusted with the task of supervising the activities of the Mission.

7. Each group shall be governed, in respect of the administrative and budgetary aspects, by the applicable rules in the organization to which it belongs. The financing of each group shall be undertaken separately by the United Nations and the Organization of American States.

8. The Special Envoy shall make the necessary arrangements concerning the presence of the Mission in Haiti.

9. The Special Envoy shall assess the political situation in Haiti with the assistance of the Mission.

10. In order to enable it to achieve its goals, the Mission shall have the following mandate:

(a) The Mission shall attach particular attention to respect for the rights to life, integrity and security of the person, individual liberty, freedom of expression and freedom of association;

(b) The Mission shall acquaint itself with the human rights situation in Haiti and shall take any initiative it may deem useful in order to ensure recognition and respect for these rights;

(c) The Mission shall, in particular, be able to:

(i) Ensure respect for human rights in Haiti;

(ii) Receive communications relating to human rights violations by any person, group of persons or organization in Haiti;

(iii) Travel freely to any place and enter any establishment without being accompanied and without giving notice;

(iv) Convene freely in any part of Haitian territory;

(v) Talk freely and in confidence with any person, any group or any member of any body or institution;

(vi) Gather, by the means it considers appropriate, any information it may deem relevant;

(vii) Put forward recommendations relating to its conclusions on cases or situations which come within its purview;

(viii) Verify that the competent authorities have taken action on those recommendations;

(ix) Devise and launch a campaign aimed at educating the general public in human rights and at explaining to it the mandate of the Mission itself;

(x) Utilize, where necessary, the mass media for discharging its mandate;

(xi) Assist the judiciary in strengthening the legal means of guaranteeing the exercise of human rights and respect for legal procedures.

11. The review by the Mission of a case or a situation shall not prejudge the application to such case or situation of the international and inter-American rules on the recognition and protection of human rights. The Mission's mandate shall not be a substitute for the mandates of the United Nations Human Rights Committee and the Inter-American Commission on Human Rights, respectively, in the application of the International Covenant on Civil and Political Rights and the American Convention on Human Rights.

12. The Haitian authorities undertake to render all necessary assistance to the Mission. For that purpose, they undertake to:

(a) Provide the Mission with all the facilities it may need in order to carry out its mandate;

(b) Ensure the security of persons who have communicated information, provided testimony or furnished evidence of any kind to the Mission, if the Mission deems it appropriate;

(c) Provide, as soon as possible, any information requested by the Mission;

(d) Implement, as rapidly as possible, recommendations made to them by the Mission;

(e) Refrain from obstructing the Mission in the performance of its tasks.

13. The Mission shall issue a special identity document to each of its members.

14. The Haitian authorities shall take the necessary steps to guarantee the security of members of the Mission and ensure their protection, both in respect of the physical integrity of persons and as regards property.

15. The privileges and immunities enjoyed by members of the Mission shall be the same as those applicable to members of the two organizations under their respective constituent charters, the relevant agreements in force in Haiti and the agreements concerning the operation of the offices of the two organizations in Haiti.

16. The members of the Mission shall enjoy, in particular, the following privileges and immunities:

(a) Immunity from personal arrest or detention and immunity from any jurisdiction in respect of oral or written statements they may make in the exercise of their functions;

(b) Inviolability of all papers and documents;

(c) The right to communicate with their respective headquarters and with each other by radio, telephone, fax, satellite links or any other means of communication, and to receive all documents or correspondence, which shall enjoy the same privileges and immunities as those which apply to couriers, emissaries and diplomat agents;

(d) The right to use any means of transport for travel within Haitian territory;

(e) Complete freedom of movement of personnel, equipment and vehicles in all parts of the country.

17. Mission premises shall be inviolable. The property and assets of such premises shall be exempt from any form of executive, administrative, judiciary or legislative constraint.

18. The archives of the Mission and all documents therein shall be inviolable, wherever they may be.

19. Privileges and immunities shall be granted to members of the Mission with a view to ensuring their complete independence in the exercise of their functions and shall not be used to their personal advantage or for the purpose of engaging in activities contrary to Haitian law.

20. The Mission is initially established for one year and its mandate is renewable.

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21. Immediately upon deployment of the Mission, the Special Envoy shall initiate discussions in order to evaluate requirements and ways and means of strengthening democracy, accelerating economic development and modernizing and professionalizing the institutions that will guarantee justice and a stable democratic order. The discussions will focus, in particular, on reform of the judiciary, professionalization of the Armed Forces and separation of the police and the Armed Forces. On the basis of the Special Envoy's conclusions, the United Nations and the Organization of American States shall engage in the necessary consultations in order to implement these technical cooperation initiatives.